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C O N F I D E N T I A L ZAGREB 000598

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DEPARTMENT FOR S/WCI:PROSPER, EUR/SCE:KABUMOTO

E.O. 12958: DECL: 04/05/2014

TAGS: [KAWC](#) [PREL](#) [KJUS](#) [HR](#)

SUBJECT: CROATIA SENDS SIX TO ICTY

REF: ZAGREB 425

Classified By: Ambassador Ralph Frank, reasons 1.5 (b) & (d)

Summary and Comment

11. (C) On April 5, the Government of Croatia put six new Bosnian-Croat ICTY indictees onto a regularly scheduled commercial flight to Amsterdam. Notwithstanding a minor misunderstanding regarding the late notice given the GoC regarding one of the six, ICTY Head of Office Thomas Osorio describes the GoC's handling of this group and the previous indictments and transfers of Croatians Cermak and Markac as "by the book." Osorio believes that Croatia's handling of these last eight indictees, along with new candor in the search for fugitive Ante Gotovina, marks a turning point in Croatia's relations with the tribunal and could bode well both for further constructive dialogue on Gotovina. Osorio also intimated that should this dialogue remain positive, Chief Prosecutor Carla del Ponte could deliver to the UN Security Council a positive report on Croatian cooperation with the Tribunal. END SUMMARY and COMMENT.

New Indictments "by the Book"

12. (C) Over the last week, the Government of Croatia delivered new ICTY indictments to six Bosnian Croat indictees. All six) former Herceg Bosna (HB) prime minister Jadranko Prlic, former Croatian Defense Council (HVO) commanders Slobodan Praljak and Milivoj Petkovic, former HB Defense Minister Bruno Stojic, former HVO Military Police commander Valentin Coric, and former head of the officer for missing and detained persons of HB Berislav Pusic -- are dual citizens of Croatia and Bosnia and Herzegovina and were resident in Croatia at the time their indictments were delivered. As promised, all six boarded a regularly scheduled commercial flight for Amsterdam the morning of Monday, April 5.

13. (C) In a meeting with EUR/SCE Director Charles English April 2, the ICTY's Head of Office for Croatia, Thomas Osorio, described the GoC's handling of these indictments, as well as those of Croatians Ivan Cermak and Mladen Markac (reftel), as "by the book." Osorio noted that the GoC was tying its own hands by offering guarantees that Cermak and Markac would appear for trial if released from custody, thus creating the expectation that similar guarantees would be offered for the new indictees.

14. (C) Osorio said the ICTY does not seek such guarantees when assessing pre-trial release requests, judging each case on three issues: whether the suspect had surrendered voluntarily; whether the state involved has a track record for cooperating on delivering suspects to the Tribunal; and whether the accused was fully cooperating with the court. Under these criteria, the Chief Prosecutor had to object to Cermak's and Markac's release and would likely object to the release of at least two of the Bosnian Croats.

Turning the Corner on Cooperation?

15. (C) ICTY Chief Osorio told Director English that Croatian cooperation with the Tribunal is better than the official, ICTY public line of "so far, so good." He said that the issue of cooperation on documentation requests is "completely behind us now." In particular, Osorio praised the professional approach of Croatia's Justice Minister Vesna Skare-Ozbolt. Osorio praised the role Foreign Minister Miomir Zuzul has played, but said he has been urging the Croatians to take the MFA out of the picture in handling relations with the Tribunal, including further indictments. Notwithstanding the political sensitivities in Croatia of each new indictment which would likely keep Prime Minister Ivo Sanader involved, Osorio said that the best way to continue to depoliticize cooperation with the Tribunal would be to remove the MFA from the process altogether.

Time for Dialogue on Gotovina

16. (C) Osorio said that Chief Prosecutor Carla del Ponte and Prime Minister Sanader had developed a whole new dialogue on the issue of fugitive Ante Gotovina. Although del Ponte had been very cautious about engaging in such a dialogue, Osorio believed that the Sanader government had earned new trust based on its moves since assuming office, including the latest Article 59 report recently submitted on its efforts to apprehend Gotovina. Osorio would not discuss with us the contents of the report, but noted that this was the first of such reports not to be immediately leaked to the media.

Another positive step, according to Osorio, was the recent decision of Justice Minister Skare-Ozbolt to give new authority on the Gotovina issue to Mladen Bajic, the highly respected Chief State Prosecutor. Osorio said that the del Ponte's office would be very cautious to avoid being trapped into developing a checklist as a basis for the GoC to claim it had done everything it could to find Gotovina. However, he reemphasized that the Prosecutor's Office now believed it could engage in a genuine dialogue with the GoC on Gotovina.

Comment

17. (C) Osorio would not come out and say this directly, but he did give us every indication that Chief Prosecutor del Ponte was moving toward delivering a positive report to the UN Security Council on Croatia. He indicated that the evolving dialogue was moving in a direction that would "allow the prosecutor to say Croatia is doing everything it can do" to find Gotovina. Although Osorio cautioned that he did not yet have the information to say the GoC was doing everything, he left us with the strong impression that the GoC and ICTY are headed in that direction.

FRANK

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